that differ from those which are applied to natural watercourses. *Neild v. Ry.* (1874) L. R. 10 Exch. 4. The leading English case holds that nature provides a flood channel for every stream, and that this may not be obstructed to the injury of others; it is clearly not stated that the channel must be well defined. *Menzies v. Breadalbane* (1828, H. L.) 3 Bligh (N. R.) 414. With one exception, which is cited in the principal case, there seems to be no English case since 1828 that cannot be distinguished under the principles stated in this note. *Drainage Board v. Ry.* (1912, K. B.) 106 L. T. 429. That case relies for its authority upon *Rex v. Pagham, supra,* which is a case of encroachment by the sea, and is governed by different principles. It is believed that the principal case cannot be supported on existing English authority, nor does it seem reasonable to hold that flood water overflowing the bank and later returning to the stream is not a part of the stream. The way which nature has provided for the flow is the watercourse, and water flowing in that course is not to be obstructed as mere surface water. See *Cairo Ry. v. Brevoort* (1894, C. C. D. Ind.) 62 Fed. 129, 133.

SALES—PUBLIC WATER WORKS—IMPLIED WARRANTY OF PURITY OF WATER SOLD.—The defendant city sold water to its inhabitants. The plaintiff, a purchaser, contracted typhoid from the water, and brought this action, alleging an implied warranty of purity. The defendant demurred. *Held,* (two judges *dissenting*) that there was no implied warranty of purity in a sale of water. *Canavan v. City of Mechanicville* (1920) 229 N. Y. 473, 128 N. E. 882.

This case is supported by almost all the little authority there is. See *Green v. Ashland Water Co.* (1898) 101 Wis. 258, 77 N. W. 722; *Hayes v. Torrington Water Co.* (1914) 88 Conn. 609, 92 Atl. 406; *Hamilton v. Madison Water Co.* (1917) 116 Me. 157, 100 Atl. 659. One case tending the other way, allowed an injunction to prevent the water company from collecting water rent where impure water had been supplied, irrespective of negligence. *Brymer v. Butler Co.* (1895) 172 Pa. 490, 33 Atl. 707. A municipal corporation which supplies water is held to the same liability as is a private water company. *Flutmus v. City of Newport* (1917) 175 Ky. 817, 194 S. W. 1039; *Oklahoma City v. Hoke* (1919) 75 Okla. 211, 182 Pac. 692. Liability in these cases was formerly denied on the ground that there was no sale. *Green v. Ashland Co., supra.* But this metaphysical distinction has not survived in the practical twentieth century. *Jersey City v. Harrison* (1904) 71 N. J. L. 69, 58 Atl. 100; see *Oakes Co. v. New York* (1912) 206 N. Y. 221, 228, 99 N. E. 540, 541. There seems to be the same relation between the parties as in the sale of foodstuffs. *Jones v. Mt. Holly Water Co.* (1915) 87 N. J. L. 106, 93 Atl. 860. In this regard it is a very nice question as to the effect of the sales act on the American theory of an absolute liability on an implied warranty because of a high regard for human life. The words of the statute require actual or implied notice of the particular use for which the article is bought, and actual or implied reliance upon the seller's skill; it is still an open question whether or not this is merely a codification of the common law. See Perkins, *Unwholesome Food as a Source of Liability* (1920) 5 IOWA L. BULL. 103; COMMENTS (1920) 29 YALE LAW JOURNAL, 782. It has been held necessary that the goods be such that the seller have an opportunity to examine. Cf. *Ward v. Atlantic & Pacific Tea Co.* (1918) 231 Mass. 90, 120 N. E. 225; *Bigelow v. Me. Central Ry.* (1912) 110 Me. 105, 85 Atl. 396. When a householder contracts for water, he commonly does so for purposes of securing a drinking supply. But is water nearer to nature and less under the seller's control than pork? Has modern science developed microscopic inspection so that it is practical for a city continuously to inspect its water supply for typhoid? Answering that there is no control, the instant case decides that without control on the seller's part there is no implied reliance on his skill, and that the words of the sales act make reliance necessary.